

**FRIDLEY CITY CODE**  
**SECTION 205.30. O-5 TELECOMMUNICATIONS TOWERS**  
**AND FACILITIES DISTRICT**  
(Ref Ords 1112, 1114, 1117 1136)

**1. PURPOSE AND INTENT**

The general purpose of this Section is to create an overlay zone to regulate the placement, construction, and modification of towers and Wireless Telecommunications Facilities in order to protect the health, safety, and welfare of the public, while at the same time not unreasonably interfering with the development of the competitive wireless telecommunications marketplace in the City.

Specifically, the purposes of this Section are:

- A. To protect residential areas and land uses from potential adverse impact of Towers and Wireless Telecommunications Facilities;
- B. To minimize adverse visual impact of Towers and Wireless Telecommunications Facilities through careful design, siting, landscaping, and innovative camouflaging techniques;
- C. To promote and encourage shared use/collection of Towers and existing Antenna Support Structures as a primary option rather than construction of additional single-use Towers in order to minimize the adverse visual impact of Towers and Wireless Telecommunications Facilities;
- D. To avoid potential damage to property caused by Towers and Wireless Telecommunications Facilities by ensuring that such structures are soundly and carefully designed, constructed, modified, maintained, located, and removed when no longer used or determined to be structurally unsound;
- E. To ensure that Towers and Wireless Telecommunications Facilities are compatible with surrounding land uses;
- F. To facilitate the provision of wireless telecommunications services to the residents and businesses of the City in a streamlined, orderly, and efficient fashion;
- G. To encourage the location of Towers in industrial and business districts, rather than residential areas;
- H. To enhance the ability of providers of telecommunication services to provide such services to the community quickly, effectively, and efficiently;
- I. To identify specific sites within the City where Wireless Telecommunications Facilities may be located.

## 2. DEFINITIONS

The following words, terms, and phrases, when used in this section, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning;

*“Antenna Support Structure”* means any building or other structure other than a Tower which can be used for location of Wireless Telecommunications Facilities.

*“Applicant”* means any Person that applies for a permit for wireless telecommunication facilities or Towers.

*“Application”* means the process by which a Person submits a request to develop, construct, build, modify, or erect wireless telecommunication facilities or a Tower upon land within the City. Application includes all written documentation, verbal statements and representations, in whatever form or forum, made by an Applicant to the City concerning such a request.

*“Approved Site”* means a site which has been approved by the City Council as an eligible location for placement of wireless communication facilities.

*“Automatic Meter Reading device”* means a device which is designed for collecting, storing, processing, filtering and forwarding utility meter data within the Public Safety and Utility bandwidth licensed by Federal Communications commission, including any antenna attached to such device.

*“Automatic Meter Reading system”* means a series of devices which is designed for collecting, storing, processing, filtering and forwarding utility meter data within the Public Safety and Utility bandwidth licensed by Federal Communications Commission, including any antenna attached to such device.

*“City”* means the City of Fridley, Minnesota.

*“Electrical Engineer”* means an Electrical Engineer licensed by the State of Minnesota.

*“Existing Site”* means a Tower or Antenna Support Structure for which a permit has not been issued prior to the Effective Date, and which is not located on an Approved site.

*“Owner”* means any Person with fee simple title to any Approved site, Existing site, site approved by special use permit, or Wireless Telecommunications Facility.

*“Pad Mount Device”* means a device which is designed for collecting, storing, processing, filtering and forwarding utility meter data within the Public Safety and Utility bandwidth licensed by Federal Communications Commission, including any antenna attached to such device like the Automatic Meter Reading Device, but, which is installed on its own pedestal and not on an existing public utility structure.

“*Person*” is any natural person, firm, partnership, association, corporation, company, or other legal entity, private or public, whether for profit or not for profit.

“*Public Utility Structure*” means a structure or pole appropriate for supporting wires for communications or the transmission of data or electricity and located on a public right-of-way or public utility easement or privately owned property.

“*Satellite Earth Station Antenna*” is all equipment necessary for processing of traffic received from terrestrial distributions prior to transmission via satellite and of traffic received from the satellite prior to transfer of channels of communication to terrestrial distribution systems.

“*State*” means the State of Minnesota.

“*Structural Engineer*” means a structural engineer licensed by the State of Minnesota.

“*Tower*” Means a self-supporting lattice, guyed, or monopole structure constructed from grade which supports Wireless Telecommunications Facilities. The term “Tower” shall not include amateur radio operator’s equipment as licensed by the FCC.

“*Wireless Telecommunications Facilities*” means any cables, wires, lines, wave guides, antennas, and any other equipment or facilities associated with the transmission or reception of communications (other than radio or television broadcast communications) which a person seeks to locate or have installed upon or near a Tower or an Antenna Support Structure. However, the term Wireless Telecommunications Facilities shall not include:

- A. Any satellite earth station antenna two meters in diameter or less which is located in an area zoned industrial or commercial; and
- B. Any satellite earth station reception antenna one meter or less in diameter, regardless of zoning category; and
- C. Automatic Meter Reading Systems.

### **3. NON-CONFORMING USES**

- A. Existing sites shall be considered a legal non-confirming use, unless otherwise provided for in this Chapter.
- B. Installation of additional Wireless Telecommunications Facilities beyond those in existence on the Effective Date of this Ordinance on Existing Sites is prohibited. Failure to comply with this provision will be considered a violation of this Chapter and subject to the penalties described herein. Routine maintenance of Wireless Telecommunications Facilities on Existing Sites is permitted, except that Existing Sites and any Wireless Telecommunications Facilities installed on Existing sites may not increase in size, height, weight, or otherwise result in an increase in the intensity of the non-confirming use.

- C. If any Wireless Telecommunications Facilities in an Existing Site are abandoned for a period of one year, such Existing site shall lose its legal conforming status and shall be considered illegal nonconforming use. The abandoned Wireless Telecommunications Facilities shall not be re-established on the site, and must be removed within twelve (12) months of the cessation of operations. If not removed, the city may remove the facility and assess the costs of removal against the Owner(s).

#### **4. DISTRICT BOUNDARIES FOR OVERLAY ZONE**

A Telecommunications Towers and Facilities District, 0-5, is created and shall apply to all land within the City subject to the provisions and use requirements contained in this Section.

#### **5. USES PERMITTED**

- A. The construction of Towers and the installation, operation and maintenance of Wireless Telecommunications Facilities shall be permitted use in the Approved Sites identified on Appendix A to this Ordinance, subject to the provisions of this Chapter. Additional Approved Sites may be approved by the City Council, subject to the amendment procedures set forth in Section 205.05.04 of the City code, and the requirements of this section.
- B. All principal, special use, and accessory uses allowed in each underlying primary zoning district are permitted in the Telecommunications Towers and Facilities district, except that no Towers shall be constructed, and no Wireless Telecommunications Facilities shall be placed on Towers or Antenna Support Structures, except as provided for in this Chapter.
- C. Special Uses. The construction of Towers and the installation, operation, and maintenance of Wireless Telecommunications Facilities shall be a special use in Zoning districts M-1, M-2, M-3, and M-4, and any abutting railroad rights-of-Way Management. In addition, all Automatic Meter Reading Systems must meet the following performance standards:
- (1) All Automatic Meter Reading devices located in the public right-of-way, must obtain an Automatic Meter Reading Device permit and pay the appropriate registration fee, as provided for in Chapter 407.
  - (2) Mapping information for the site(s) must be provided with the Automatic Meter reading Device permit application in a format compatible to be utilized by the City of Fridley's Geographic Information System (GIS).
  - (3) All Automatic Meter Reading Device(s) must be located no higher than the top and no closer to grade than fifteen (15) feet of a public utility structure.
  - (4) Automatic Meter Reading Devices not installed on a public utility structure will be considered as pad mount design. Its location shall be subject to review and approval of the City prior to permit application.

- (5) All Automatic Meter Reading Devices must be the same color as the public utility structure on which they are located or as approved by City Staff.

## **6. CRITERIA FOR ADDING APPROVED SITES TO APPENDIX A**

Additional Approved Sites, other than those provided in Appendix A to this Ordinance, shall be approved by the City Council according to the amendment procedures of Section 205.05.04 of the City code. The criteria used to determine whether a site shall be designated as an Approved Site shall include, but not be limited to, the following requirements:

- A. Whether the proposed new site is capable of being developed to support more than two operating Wireless Telecommunications Facilities comparable to the others in weight, size, and surface area.
- B. Whether the proposed new site poses a risk of explosion, fire, or other danger due to its proximity to volatile, flammable, explosive, or hazardous materials such as LP gas, propane, gasoline, natural gas, or corrosive or other dangerous chemicals; and
- C. Whether the proposed new site is necessary and that useable Approved Sites are not located within a one-half (1/2) mile radius of the proposed new site; and
- D. Whether all foreseeable telecommunications uses of the proposed site could comply with any separation and buffer requirements of the underlying zoning district;
- E. Whether all foreseeable telecommunications uses of the proposed new site could comply with the setback requirements of the underlying zoning district; and
- F. Whether the proposed site is accessible for service vehicles;
- G. If applicable, whether the proposed site has been designed and certified by a Structural Engineer to be structurally sound and, at minimum, in conformance with the Building and Electric Codes adopted by the City, the National Electric Safety Code, and any other standards and requirements outlined in this Section.
- H. If applicable, whether the Approved Site complies with all applicable Federal Aviation Administration lighting and painting regulations.
- I. Whether the proposed site will further the City's objective that all Towers, Antenna Support Structures, and Wireless Telecommunications Facilities be designed to blend into the surrounding environment.
- J. Whether the proposed site has adequate open space to allow Wireless Telecommunications Facilities to be installed without detrimentally impacting landscape, displacing parking, or impeding sight lines of a current or future principal use.

- K. Whether the proposed site adequately contributed to the City's overall effort to adequately meet the needs of the wireless telecommunications industry.
- L. Whether the proposed site has amenities such as trees that will allow screening and sight line relief. If no, whether the combination of site size and other site features help to provide sight line relief.
- M. Whether there are other structures near the proposed site that can serve as visual distractions such as high power transmission structures, highway shoring, billboards.
- N. Whether there are existing buildings or natural topographic features that meet the height requirements of Wireless Telecommunications Facilities without a tower structure, or which allow for a lower overall height of any necessary Tower.
- O. Whether there is adequate space on the proposed site so that the base of any necessary Tower can accommodate essential equipment.
- P. Whether the proposed site is outside of any underlying residential zoning districts.
- Q. Whether housed equipment can be placed on top or on the side of a structure that currently exists in the proposed site.

**7. APPLICATION FOR PLACEMENT OF TOWERS OR WIRELESS TELECOMMUNICATIONS FACILITIES IN THE CITY.**

- A. All persons seeking to install, operate and maintain Towers Wireless Telecommunications Facilities in Approved sites in the city must file an Application with the City which shall include:
  - (1) The names, address, and telephone number of the Applicant; and
  - (2) Written, technical evidence from a qualified and licensed Structural Engineer that the proposed Tower or Antenna Support structure is capable of supporting the equipment necessary to install, operate, and maintain the proposed antenna. The engineer shall also certify the capability of the Tower. in view of existing or other proposed antenna installations. The engineer shall also assess and state the design safety margin of the entire antenna support system. The engineer shall state that within the limits of engineering certainty, if the structure would fall or collapse for any reason or due to any event, the structure will be completely contained within the area identified; and
  - (3) If proposed on a City-owned site, a completed application form for lease approval as provided by the City; and
  - (4) A report from a qualified and licensed professional engineer which described the height and design of the proposed Wireless Telecommunications Facility including a cross-section and elevation; and

- (5) Site plan drawn at an engineering scale showing the location of the Wireless Telecommunications Facility in relation to surrounding structures; and
  - (6) If located on a water tower, a written report addressing the requirements contained herein for water towers; and
  - (7) Foundation, cross-section, and building plans for installation of the Wireless Telecommunications Facility; and
  - (8) An Application fee as required by Chapter 11; and
  - (9) The Application shall also contain an affirmative statement indicating that the Applicant agrees to comply with the provisions in Section 205.30.23. regarding abandonment; and
  - (10) No new or existing wireless telecommunications service will interfere with public safety telecommunications. Before the introduction of new service or before implementing any change in existing service, all wireless telecommunications service providers shall notify the City at least ten (10) calendar days in advance of such changes and allow the City to monitor interference levels during the testing process; and
  - (11) Application for a building permit from the City pursuant to Chapter 206 of the code; and
  - (12) A statement as to whether the proposed development of Approved Site is capable of being developed to support more than two (2) operating Wireless Telecommunications Facilities comparable to the others in weight, size, and surface area; and
  - (13) Written, technical evidence from an independent consulting engineer licensed to practice geological engineering in the State of Minnesota confirming that the soil at the location of the Tower or Wireless Telecommunication Facility is capable of supporting the proposed antenna arrays, equipment, and personnel performing typical work functions; and
  - (14) A landscaping plan showing location of materials, height at planting, types of materials, and installation practices.
- B. All information submitted with an Application that is trade secret information or is for other reasons proprietary shall be clearly marked as such when submitted with an Application. The City shall not disclose publicly, or to any third party, proprietary information unless compelled to do so by federal, state or local law.

- C. All persons seeking to install, operate, and maintain Towers or Wireless Telecommunications Facilities in M-1, M-2, M-3, or M-4 Zoning Districts as a special use permit shall submit the information required in 205.30.07.A, except items (3) and (11).

## **7.5 APPLICATION FOR AN AUTOMATIC METER READING DEVICE IN THE CITY**

- A. All persons seeking to install, operate and maintain Automatic Meter Reading systems in the City must file an application with the City, which shall include:
  - (1) The name, address and telephone number of the applicant and property owner; and
  - (2) Written, technical evidence from a qualified Structural Engineer that the integrity of the structure on which a proposed Automatic Reading Device(s) will be attached and the attachment device itself will not jeopardize the structural integrity of the public utility structure; and
  - (3) A location plan matching the public utility structure identification (address) and the appropriate Automatic Meter Reading device; and
  - (4) An individual Automatic Meter Reading device permit fee as required by Chapter 11; and
  - (5) The application shall contain an affirmative statement indicating that the applicant agrees to comply with the provisions in section 1112.23. regarding abandonment; and
  - (6) No Automatic Meter Reading system will interfere with public safety telecommunications. Before the introduction of new service or before implementing any change in existing service, all Automatic Meter Reading System operators shall notify the City at least ten (10) calendar days in advance of such changes and allow the City to monitor interference levels during the testing process.
- B. All information submitted with an application that is trade secret information or is for other reasons proprietary shall be clearly marked as such when submitted with an application. The City shall not disclosed publicly, or to any third party, proprietary information unless compelled to do so by federal, state or local law.

## **8. APPLICATION PROCESS**

- A. Upon submission of an Application on an Approved Site, the city shall notify the Applicant in writing to confirm if the Application is complete addressing all of the requirements as required by this Section. If the Application is incomplete, the letter will

specify what information is missing and the Applicant must then submit a new Application. If an Application is submitted on an Approved Site which is owned by the City, a lease agreement must be approved by the City Council. The City shall comply with the time deadlines for agency action as dictated in Minnesota State Statutes. Construction or installation on Approved Sites may begin upon approval of the lease agreement, if necessary, and issuance of a building permit.

- B. If a Tower or Wireless Telecommunications Facility is approved by a special use permit, the Applicant must also apply for and receive a building permit.

## **9. TOWER HEIGHT**

Tower height shall be measured from the average adjoining grade to the highest point of construction of any Tower or Wireless Telecommunications Facilities. Towers are exempt from the maximum height restrictions of the districts where located. Towers shall be permitted to a height of one hundred twenty-five (125) feet.

## **10. STEALTH DESIGN AND EXTERIOR FINISHES**

All Approved Sites, Towers, and Wireless Telecommunications Facilities shall be designed to blend into the surrounding environment. Monopoles with antenna arrays shall be finished so as to be compatible with other buildings or structures in the area, and shall be finished with a non-corrosive material. Wireless Telecommunications Facilities placed on water towers shall be finished with a non-corrosive material to match the color of the water tower.

## **11. ILLUMINATION**

Towers shall be artificially illuminated except as required by the Federal Aviation Administration ("FAA"). Upon commencement of construction of a Tower, in cases where there are residential uses located with a distance of three hundred (300) feet from the Tower, and when required by federal law, dual mode lighting shall be requested from the FAA.

## **12. LANDSCAPING AND SCREENING**

All sites shall include appropriate landscaping as required herein and shall comply with all landscaping requirements of the underlying zoning district. Accessory above-ground equipment must utilize existing buildings or structures, if possible. If no existing structures are available, the Owner of the Wireless Telecommunications Facilities may construct such a structure. At minimum, all ground equipment shall be fully screened from public rights-of-way or residential property by existing structures, a brick decorative wall, or a solid one hundred percent (100%) opaque vegetative enclosure, six feet in height at planting.

## **13. SECURITY**

All towers must be reasonably posted and secured to protect against trespass. Chain link fences may be used to protect Towers and Wireless Telecommunications Facilities. Barbed or razor wire is prohibited. All facilities shall be designed to discourage unauthorized climbing on the structure.

#### **14. INSTALLATION REQUIREMENTS ON WATER TOWERS AND IN CITY**

Installation of Wireless Telecommunication Facilities on water towers will be permitted when the city is fully satisfied that the following requirements are met:

- A. The Wireless Telecommunications Facility will not increase the risks of contamination to the City's water supply.
- B. There is sufficient room on the structure and/or in the grounds to accommodate the Wireless Telecommunication Facility.
- C. The presence of the Wireless telecommunication Facility will not increase the water tower or reservoir maintenance costs to the City.
- D. The presence of the Wireless Communication Facility will not be harmful to the health of workers maintaining the water tower or reservoir.
- E. All state and federal regulations pertaining to non-ionizing radiation and other health hazards has been satisfied.

#### **15. BUILDING PERMIT REQUIRED**

A building permit is required for installation of any Tower or Wireless Telecommunications Facility. The completed installation, including all associated buildings, shall comply with all applicable building codes including but not limited to N.F.P.A. 70 National Electrical Code, EIA 222 Structural Standards for Steel Antenna towers, and others as may be determined by the Building Official.

#### **16. SETBACKS**

The Tower or Wireless Communications Facility shall be located in rear or side yard areas and shall be set back at least ten (10) feet from side or rear lot lines.

#### **17. SIGNS**

Warning or equipment information signs are the only permitted signage associated with the Tower or Wireless Telecommunications Facility.

#### **18. CERTIFICATIONS AND INSPECTIONS**

- A. All Towers and Wireless Telecommunications Facilities shall be periodically reviewed by the City to be structurally sound and in conformance with the requirements of the City building code, this Chapter, any conditions of approval placed on a special use permit and all other construction standards set forth by the City's Code, and federal, state, and local law. Existing Sites may be inspected for compliance with this Section at any

time if the City believes there are questions regarding compliance with the City's building code, this Section, any conditions of approval placed on a special use permit, all other construction standards set forth in the City's Code, and all other federal, state and local laws.

- B. The City and its agents shall have authority to enter onto any Approved Site, Existing Site, or site approved by special use permit between the inspections and certifications required above, to inspect the site for the purpose of determining whether the Sites comply with the City's Building and Electrical Codes, the National Electric Safety Code and all other construction standards provided by the City's Code and federal and State law.
- C. The City reserves the right to conduct such inspections at any time, upon reasonable notice to the Owner(s). All expenses related to such inspections by the City shall be borne by the site Owner(s).

## **19. MAINTENANCE**

- A. Ordinary and reasonable care of Towers, Wireless Telecommunications Facilities and Automatic Meter Reading Systems/Devices shall be employed at all times. All Towers, Wireless Telecommunications Facilities and Automatic Meter Reading Systems shall at all times be kept and maintained in good condition, order and repair so that the same shall not menace or endanger the life or property of any person.
- B. Owners shall install and maintain Towers, Wireless Telecommunications Facilities and Automatic Meter Reading Systems/Devices in substantial compliance with the requirements of the National Electric Safety Code and all FCC, State and local regulations, and in such manner that will not interfere with the use of other property.
- C. All maintenance or construction on Towers, Wireless Telecommunications Facilities or Automatic Meter Reading Systems/Devices shall be performed by qualified maintenance and construction personnel.
- D. All owners of Wireless Telecommunications Facilities and Automatic Meter Reading Systems/Devices shall maintain compliance with current radio frequency emission standards of the FCC. In order to provide information to its citizens, copies of all FCC information concerning Wireless Telecommunications Facilities and Automatic Meter Reading Systems/Devices shall be made available to the City and updated annually.
- E. In the event the use of a Tower, or a public utility structure, or a Wireless Telecommunications Facility or an Automatic Meter Reading System/Device is discontinued by the owner of the Wireless Telecommunications Facility or Automatic Meter Reading System, or in the event an owner files notice to the FCC of its interest to cease operating the owner shall provide written notice to the City of its intent to discontinue use and the date when the use shall be discontinued.

## **20. PRIORITY FOR USE**

Priority for use of the installation, maintenance and operation of Towers and Wireless Telecommunications Facilities will be given to the following entities in descending order:

- A. City of Fridley.
- B. Public safety agencies, including law enforcement, fire, and ambulance services, which are not part of the City of Fridley and private entities with a public safety agreement with the City of Fridley.
- C. Other governmental agencies, for uses which are not related to public safety.
- D. Entities providing licensed commercial wireless telecommunication services including cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobile radio (ESMR), paging, and similar services that are marketed to the general public.

## **21. CO-LOCATION**

Towers shall be designed to support more than two Wireless Telecommunications Facilities.

## **22. FEES**

The applicant shall pay the fees requested by Chapter 11 for processing a request to install, operate, and maintain a Tower, public utility structure, pad mount device, or a Wireless Telecommunications Facility or an Automatic Meter Reading System and/or Devices in the City. If deemed as necessary due to the nature of the application, the applicant shall also be required to reimburse the City for its cost to retain a consultant to review the requested application.

## **23. ABANDONMENT**

If any site for which approval to install, maintain, and operate a Tower, or a public utility structure, or Wireless Telecommunications Facilities or Automatic Meter Reading Systems has been granted by the City shall cease to be used for a period of 365 consecutive days, the City shall notify the Wireless Telecommunications Facility operator, Automatic Meter Reading Device Operator and the owner of the property, that said site has been deemed abandoned. Upon a finding of abandonment by the city, the Tower, or a public utility structure, or Wireless Telecommunications Facilities or Automatic Meter Reading Systems that have been abandoned must be removed or an annual user fee shall be paid to the City. If it is determined that the abandoned Tower, or public utility structure of Wireless Telecommunications Facility or automatic Meter Reading System cannot be removed in a reasonable time period by the owner, the City shall assess all costs related to the removal to the owner(s).

## **24. SEVERABILITY**

If any clause, section, or other part of this Section shall be held invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Section shall not be affected thereby, but shall remain in full force and effect.

## **25. VIOLATION**

Any person who shall violate any of the provisions of this Section shall be guilty of a misdemeanor and subject to the provisions of Chapter 901 of the Fridley City Code.